

STATE OF CALIFORNIA  
**DEPARTMENT OF INSURANCE**  
300 Capitol Mall, 17<sup>th</sup> Floor  
Sacramento, California 95814

**INITIAL STATEMENT OF REASONS**

**January 1, 2011 Workers' Compensation Claims Cost Benchmark and Pure  
Premium Rates**

**File No. REG-2010-00014**

The California Insurance Commissioner will consider (1) approval of the Workers' Compensation Claims Cost Benchmark and advisory pure premium rates developed by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB") as a rating organization; (2) approval of amendments to the California Workers' Compensation Uniform Statistical Reporting Plan—1995, Title 10 CCR §2318.6 ("USRP"); (3) approval of amendments to the Miscellaneous Regulations for the Recording and Reporting of Data, Title 10, CCR §2354; and (4) approval of amendments to the California Workers' Compensation Experience Rating Plan—1995, Title 10 CCR §2353.1 ("ERP") as proposed by the WCIRB as the Insurance Commissioner's designated statistical agent. The hearing will be held in response to a filing by the WCIRB submitted on August 18, 2010.

**SPECIFIC PURPOSE AND NECESSITY**

Pursuant to Insurance Code Sections 11750 and 11750.3, the WCIRB has developed and submitted for the Insurance Commissioner's approval pure premium rates for its member insurers. Pursuant to Insurance Code Sections 11734 and 11751.5, the Insurance Commissioner has designated the WCIRB as his statistical agent. As the designated statistical agent, the WCIRB has filed revisions to the USRP; the Miscellaneous Regulations for the Recording and Reporting of Data; and the ERP for approval. The pure premium rates will be advisory only; however, adherence to the regulations contained in the USRP, the Miscellaneous Regulations for the Recording and Reporting of Data, and the ERP is mandatory. With regard to the standard classification system developed by the WCIRB and approved by the Insurance Commissioner, Insurance Code Section 11734 provides that an insurer may develop its own classification system if it is filed with the Insurance Commissioner 30 days prior to its use and is not disapproved by the Insurance Commissioner for failure to demonstrate that the data produced by the insurer's classification system can be reported consistently with the USRP or the standard classification system developed by the WCIRB and approved by the Insurance Commissioner.

The Insurance Commissioner also has instructed the WCIRB to file and submit advisory rules and rating plans for review. The WCIRB is submitting amendments to the California Retrospective Rating Plan and California Large Risk Deductible Plan.

The pure premium rates recommended by the WCIRB to be effective January 1, 2011, as well as proposed revisions to the regulations to be effective January 1, 2011 and January 1, 2012, are detailed in the WCIRB's filing and summarized below.

### **APPROVE CLAIMS COST BENCHMARK AND PURE PREMIUM RATES**

Pursuant to California Insurance Code Section 11750.3, the WCIRB has proposed advisory pure premium rates for approval by the Insurance Commissioner to be effective January 1, 2011 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2011. The corresponding overall pure premium rate level change or claims cost benchmark is 29.6% greater than the current claims cost benchmark approved by the Insurance Commissioner.

In addition, the WCIRB will be reviewing accident year experience valued as of June 30, 2010 once it is received and, if appropriate, will amend the pure premium rates proposed in this filing. Similarly, if legislative or regulatory changes are adopted or judicial action is taken prior to the time of the scheduled CDI public hearing on this filing, the WCIRB will evaluate the estimated cost impact of these changes and, to the extent appropriate, modify the pure premium rates proposed in this filing as well as and propose changes to the approved January 1, 2010 pure premium rates with respect to policies with anniversary rating dates on or after January 1, 2010 that are outstanding as of January 1, 2011.

### **AMEND THE USRP EFFECTIVE JANUARY 1, 2011**

The WCIRB recommends amending the USRP. These amendments are proposed to become effective January 1, 2011 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2011.

The WCIRB's recommendations are as follows:

1. Amend Part 1, *General Provisions*, Section I, *Introduction*, Rule 3, *Effective Date*, to show that the effective date of the amended USRP is 12:01 A.M., January 1, 2011.
2. Amend Part 2, *Policy Document Filing Requirements*, Section I, *General Instructions*, Rule 1, *Policies*, and Section II, *Policy Period*, Rule 2, *Continuing Form Policy or Fixed-Term Policy Written in Excess of One Year and Sixteen Days*, to provide insurers the option of using either the first or last period of coverage of a fixed-term policy as a short-term policy, and for clarity and consistency.
3. Amend Part 3, *Standard Classification System*, Section III, *General Classification Procedures*, Rule 4, *Standard Exceptions*, Subrule a, *Clerical Office Employees*, paragraph (2), for clarity and consistency.

4. Amend Part 3, *Standard Classification System*, Section IV, *Special Industry Classification Procedures*, Rule 2, *Construction or Erection Work*, for clarity and consistency.
5. Amend Part 3, *Standard Classification System*, Section V, Rule 1, *Payroll – Remuneration*, Subrule i, *Risk of Loss Under Both California Laws and the U.S. Longshore and Harbor Workers’ Act*, for clarity and consistency, and Subrule j, *Executive Officers*, Subrule k, *Partners*, Subrule l, *Individual Employers*, and Subrule m, *Members of a Limited Liability Company*, to adjust the minimum and maximum payroll limitations for executive officers, partners, individual employers, and members of a limited liability company to reflect wage inflation since the minimum and maximum payroll limitations were last amended in 2010.
6. Amend Part 3, *Standard Classification System*, Section VII, *Standard Classifications*, Rule 1, *Classification Section*, for clarity and consistency.
7. Amend Part 3, *Standard Classification System*, Section VII, *Standard Classifications*, Rule 2, *Standard Classifications*, as follows:
  - Amend Classification 9181, *Athletic Teams or Parks – all players on the salary list of employer, whether regularly played or not*, to increase the annual payroll limitation for players from \$97,500 to \$101,400 per year per person to reflect wage inflation since the threshold was last amended in 2010.
  - Amend the footnote to Classification 3840, *Automobile, Automobile Truck or Motorcycle Parts Mfg. – N.O.C.*, to include automobile or automobile truck radiator manufacturing.
  - Eliminate Classification 3807, *Automobile or Automobile Truck Radiator Mfg.*, as it is no longer statistically credible.
  - Eliminate Classification 3300, *Bed Spring or Wire Mattresses Mfg.*, as it is no longer statistically credible.
  - Amend the footnote to Classification 8078(2), *Beverage Preparation Shops – not bars or taverns*, for clarity and consistency.
  - Amend Classification 8601(1), *Engineers – consulting – mechanical, civil, electrical and mining engineers and architects – not engaged in actual construction or operation*, to include outside salespersons and clerical office employees, and to clarify that land surveyors shall be separately classified under Classification 8602(1), *Land Surveyors – consulting – not engaged in actual construction or operation*. The WCIRB is gathering further information regarding the proposed changes to the standard classifications for (a) engineers, (b) land surveyors, (c) oil

or gas geologists or scouts, and (d) geophysical exploration, and, if appropriate, the WCIRB will amend the January 1, 2011 pure premium rate filing.

- Amend the footnote to Classification 2102, *Fruit or Vegetable Evaporation or Dehydrating*, listed under the *Food Packaging and Processing* Industry Group, to clarify that packing and handling of dried fruits shall be separately classified.
- Amend the cross-references for each classification listed under the *Food Packaging and Processing* Industry Group for consistency.
- Establish a cross-reference to indicate that Classification 8350, *Gasoline or Oil Dealers – wholesale*, is listed under the *Petroleum* Industry Group.
- Establish a cross-reference to indicate that Classification 8602(3), *Geophysical Exploration*, is listed under the *Petroleum* Industry Group.
- Amend Classification 8834, *Physicians – all employees*, listed under the *Health and Human Services* Industry Group, for clarity and consistency.
- Amend the footnote to Classification 8078(3), *Ice Cream or Frozen Yogurt Shops*, for clarity and consistency.
- Establish Classification 8602(1), *Land Surveyors – consulting – not engaged in actual construction or operation*, to encompass land surveying and timber cruising operations. These operations, combined with Classification 8602(2), *Oil or Gas Geologists or Scouts*, and Classification 8602(3), *Geophysical Exploration – including mapping of subsurface areas*, constitute an identifiable industry that is of sufficient size to generate a statistically credible pure premium rate. The WCIRB is gathering further information regarding the proposed changes to the standard classifications for (a) engineers, (b) land surveyors, (c) oil or gas geologists or scouts, and (d) geophysical exploration, and, if appropriate, the WCIRB will amend the January 1, 2011 pure premium rate filing.
- Amend the footnote to Classification 2570, *Mattress or Box Springs Mfg. – including pillow, quilt or cushion manufacturing*, to state that bed spring and wire mattress manufacturing shall be classified as Classification 3257, *Wire Goods Mfg. – N.O.C.*
- Amend Classification 9610, *Motion Pictures – production*, to increase the annual payroll limitation for actors, musicians, producers and the motion picture director from \$97,500 to \$101,400 per person to reflect wage inflation since the threshold was last amended in 2010.
- Eliminate Classifications 8601(2), *Oil or Gas Geologists or Scouts*, and 8601(3), *Geophysical Exploration*, listed under the *Petroleum* Industry Group, and establish Classifications 8602(2), *Oil or Gas Geologists or Scouts*, and 8602(3), *Geophysical*

*Exploration – including mapping of subsurface areas*, as alternate wording to proposed Classification 8602(1), *Land Surveyors – consulting – not engaged in actual construction or operation*. The WCIRB is gathering further information regarding the proposed changes to the standard classifications for (a) engineers, (b) land surveyors, (c) oil or gas geologists or scouts, and (d) geophysical exploration, and, if appropriate, the WCIRB will amend the January 1, 2011 pure premium rate filing.

- Amend Classifications 4297(1), *Electronic Prepress – all operations*, and 4297(2), *Graphic Design – all operations*, listed under the *Printing, Publishing and Duplicating* Industry Group, for clarity and consistency.
  - Amend Classification 7610, *Radio, Television or Commercial Broadcasting Stations – all employees*, to increase the annual payroll limitation for players, entertainers or musicians from \$97,500 to \$101,400 per person to reflect wage inflation since the threshold was last amended in 2010.
  - Eliminate the cross-reference to Classification 3578, *Radio or Television Broadcasting/Receiving Equipment Mfg.*, listed under the *Electronics* Industry Group, as this classification no longer exists.
  - Amend the footnote to Classification 8078(1), *Sandwich Shops – not restaurants*, for clarity and consistency.
  - Amend Classification 7365, *Taxicab Operations – all employees*, to increase the minimum annual payroll per taxicab from \$27,300 per year to \$28,500 to reflect wage inflation since the threshold was last amended in 2010.
  - Amend Classification 9156, *Theaters – dance, opera and theater companies*, to increase the annual payroll limitation for performers and directors of performers from \$97,500 to \$101,400 per person to reflect wage inflation since the threshold was last amended in 2010.
  - Amend Classification 9151, *Theaters – music ensembles*, to increase the annual payroll limitation for performers and directors of performers from \$97,500 to \$101,400 per person to reflect wage inflation since the threshold was last amended in 2010.
8. Amend Part 3, *Standard Classification System*, Section VIII, *Abbreviated Classifications – Numeric Listing*, for consistency with recommendations proposed elsewhere in this filing.
9. Amend Part 4, *Unit Statistical Report Filing Requirements*, Section II, *Definitions*, Rule 11, *Final Premium(s)*, to specify two additional assessments that are excluded from Final Premium and to clarify that the policy assessments listed are not all-inclusive.

10. Amend Part 4, *Unit Statistical Report Filing Requirements*, Section II, *Definitions*, Rule 16, *Indemnity Loss(es)*, to change the reference from incurred medical to medical loss for consistency; Rule 19, *Loss Adjustment Expenses*, to change the reference from incurred indemnity and incurred medical to indemnity loss and medical loss, respectively, for consistency; and Rule 22, *Medical Loss(es)*, Rule 27, *Not Applicable*, and Rule 30, *Optional*, for clarity and consistency.
11. Amend Part 4, *Unit Statistical Report Filing Requirements*, Section III, *Policy Information (Header)*, to provide insurers the option of using either the first or last period of coverage of a fixed-term policy as a short-term policy, to conform to WCSTAT specifications, to renumber paragraphs as necessary, and for clarity and consistency.
12. Amend Part 4, *Unit Statistical Report Filing Requirements*, Section IV, *Exposure and Premium Information*, to conform to WCSTAT specifications, to renumber paragraphs as necessary, and for clarity and consistency.
13. Amend Part 4, *Unit Statistical Report Filing Requirements*, Section IV, *Exposure and Premium Information*, Rule 12, *Premium Discount Amount (Premium Discount Amt.) — not applicable in California*, and Rule 13, *Expense Constant Amount (Expense Constant Amt.) — not applicable in California*, to clarify that although the indicated data fields are not required to be reported in California, the amounts, if any, must be included in the Final Premium amount reported, and to renumber the rules as necessary.
14. Amend Part 4, *Unit Statistical Report Filing Requirements*, Section V, *Loss Information*, Subsection A, *General Loss Reporting Instructions*, to eliminate the option of reporting claims on a grouped basis, and amend Rule 4, *Supplemental Claim Information*, to require the reporting of the supplemental claim information on all temporary claims instead of only on temporary claims with incurred losses of more than \$5,000, effective on policies incepting on or after January 1, 2011.
15. Amend Part 4, *Unit Statistical Report Filing Requirements*, Section V, *Loss Information*, Subsection B, *Loss Data Elements*, to eliminate the option of reporting claims on a grouped basis, to conform to WCSTAT specifications, and for clarity and consistency.
16. Amend Part 4, *Unit Statistical Report Filing Requirements*, Section V, *Loss Information*, Subsection C, *Special Loss Reporting Instructions*, for clarity and consistency.
17. Amend Part 4, *Unit Statistical Report Filing Requirements*, Section VI, *Subsequent Reports, Correction Reports, and Reporting Methods*, to eliminate the option of reporting claims on a grouped basis, effective on policies incepting on or after January 1, 2011.

18. Amend Part 4, *Unit Statistical Report Filing Requirements*, Section VI, *Subsequent Reports, Correction Reports, and Reporting Methods*, Rule 3, *Reporting Methods*, Subrule a, *Previous/Revised Method*, to clarify that the “Totals” field on correction reports and subsequent reports must be the sum of all payroll or loss records for the entire policy and not just the sum of the revised or updated payroll or loss records.
19. Amend Part 4, *Unit Statistical Report Filing Requirements*, Section VI, *Subsequent Reports, Correction Reports, and Reporting Methods*, Rule 3, *Reporting Methods*, Subrule b, *Add/Change/Delete Method*, to eliminate the option of reporting claims on a grouped basis, effective on policies incepting on or after January 1, 2011.
20. Amend Part 4, *Unit Statistical Report Filing Requirements*, Section VI, *Subsequent Reports, Correction Reports, and Reporting Methods*, Rule 3, *Reporting Methods*, Subrule b, *Add/Change/Delete Method*, to clarify that the “Totals” field on correction reports and subsequent reports must be the sum of all payroll or loss records for the entire policy and not just the sum of the revised or updated payroll or loss records.

## **Appendices**

The WCIRB’s recommendations are as follows:

1. Amend Appendix V, *Required Loss Fields for Particular Injury Types and Types of Claims*, to eliminate the option of reporting claims on a grouped basis and to require the reporting of the supplemental claim information on all temporary claims instead of only on temporary claims with incurred losses of more than \$5,000, effective on policies incepting on or after January 1, 2011.

## **AMEND THE USRP EFFECTIVE JANUARY 1, 2012**

The WCIRB recommends amending the USRP. These amendments are proposed to become effective January 1, 2012 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2012.

The WCIRB’s recommendations are as follows:

1. Amend Part 3, *Standard Classification System*, Section V, *Payroll – Remuneration*, Rule 1, *Payroll – Remuneration*, Subrule o, *Welfare Funds*, to provide that vacation and holiday pay are not subject to exclusion from reportable remuneration.

## **Appendices**

The WCIRB’s recommendations are as follows:

1. Amend Appendix III, *Payroll/Remuneration Table*, to (1) revise the entry entitled *Prevailing Wage Laws, “Davis Bacon Act”*, to provide that vacation and holiday are

not included among the fringe benefits that are excluded from reportable remuneration; and (2) revise the entry entitled *Vacation Pay*, to remove the references pertaining to “Davis-Bacon” and the USRP, *Standard Classification System*, Section V, *Payroll – Remuneration*, Rule 1, *Payroll – Remuneration*, Subrule o, *Welfare Funds*, to be effective January 1, 2012.

## **AMEND THE MISCELLANEOUS REGULATIONS FOR THE RECORDING AND REPORTING OF DATA**

The WCIRB recommends that the following amendments to the Miscellaneous Regulations for the Recording and Reporting of Data (Miscellaneous Regulations) be approved effective January 1, 2011 with respect new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2011.

The WCIRB recommends that:

1. Amend Part 1, *General Provisions*, Section I, *Introduction*, Rule 2, *Effective Date*, to show that the effective date of the amended Miscellaneous Regulations is 12:01 A.M., January 1, 2011 to be consistent with the effective date of the California Workers’ Compensation Uniform Statistical Reporting Plan—1995 for ease of reference.

## **AMEND THE ERP EFFECTIVE JANUARY 1, 2011**

The WCIRB recommends that the following amendments to the ERP be approved effective January 1, 2011 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2011.

The WCIRB recommends that:

1. Amend Section I, *General Provisions*, Rule 2, *Effective Date*, to show that the effective date of the amended Experience Rating Plan is 12:01 A.M., January 1, 2011.
2. Amend Section III, *Eligibility and Experience Period*, Rule 1, *Eligibility Requirements for California Workers’ Compensation Insurance*, to adjust the experience rating eligibility threshold from \$16,300 to \$21,700 to reflect wage inflation and the indicated change in the claims cost benchmark proposed in this filing.
3. Amend Section V, *Application of Experience Modification*, Rule 5, *Notification of Experience Modification*, to provide that a risk is entitled to receive a copy of its Experience Rating Form free of charge from the WCIRB upon request.
4. Amend the expected loss rates and D-ratios shown in Table II, *Expected Loss Rates and Full Coverage D-Ratios*, to reflect the most current data available.



## **AMEND THE ERP EFFECTIVE JANUARY 1, 2012**

The WCIRB recommends that the following amendments to the ERP be approved effective January 1, 2012 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2012.

The WCIRB's recommendations are as follows:

1. Amend Section VII, *Rating Procedure*, Rules 1 through 6, to present the experience rating formula in terms of primary and excess credibilities, rather than "B" and "W" values, in order to facilitate a better understanding of the experience rating process, and to eliminate Rule 7, *Maximum Experience Modification*, as it is no longer relevant.
2. Replace the values in Table III, *B and W Values*, with *Credibility Primary and Credibility Excess Values*, to conform to changes proposed elsewhere in this filing, and for clarity.
3. Amend the *Experience Rating Form—California* to delete the existing forms and replace them with new forms to conform to changes proposed elsewhere in this filing, and for clarity.

## **REVIEW AMENDMENTS TO THE CALIFORNIA RETROSPECTIVE RATING PLAN**

The following amendments to the advisory California Retrospective Rating Plan were adopted by the WCIRB to be effective January 1, 2011. The amendments to this WCIRB advisory plan are being submitted to the California Department of Insurance for review.

- Amended to reflect updated rating values, to incorporate the most current version of the Retrospective Premium Endorsement form and for clarity and consistency.

## **REVIEW AMENDMENTS TO THE CALIFORNIA LARGE RISK DEDUCTIBLE PLAN**

The following amendments to the advisory California Large Risk Deductible Plan were adopted by the WCIRB to be effective January 1, 2011. The amendments to this WCIRB advisory plan are being submitted to the California Department of Insurance for review.

- Amended to reflect updated rating values as well as for clarity and consistency.

## **SPECIFIC TECHNOLOGIES OR EQUIPMENT**

Adoption of these proposed changes and amendments will not mandate the use of specific technologies or equipment.

## **IDENTIFICATION OF STUDIES, REPORTS, OR DOCUMENTS**

The Commissioner did not consider any studies, reports, or documents in promulgating these proposed changes or amendments other than the information provided by the WCIRB in its filing. However, the Commissioner may consider studies, reports, or documents submitted by the WCIRB, requested of the WCIRB by the Commissioner or his staff, or submitted by any interested person.

## **REASONABLE ALTERNATIVES**

The Commissioner has determined that no reasonable alternatives exist to carry out the proposed changes and amendments and that there are no reasonable alternatives that would lessen the impact on small business.

## **ASSESSMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**

The Commissioner has determined that it is unknown whether there will be a significant adverse economic impact on business as a result of the proposed changes to the pure premium rates. Adjustments to the pure premium rates and claims cost benchmark are advisory only, and it is left to workers' compensation insurers to determine what adjustments to make to their own rates. The Commissioner has determined that changes and amendments to the regulations contained in the USRP, the Miscellaneous Regulations for the Recording and Reporting of Data, and the ERP will not have a significant adverse economic impact on business based upon the information provided by the WCIRB in its filing.

## **PRE-NOTICE PUBLIC DISCUSSIONS**

The Commissioner has not conducted Pre-Notice Public Discussions; however, the WCIRB has conducted public meetings regarding these proposed changes and amendments.